

# Memorandum

150.0700

To: San Francisco – Auditing (LC:REP)

January 27, 1965

From: Tax Counsel (EHS) – Headquarters

Subject: P--- G--- and E--- C---  
XXX ---Street  
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XX-XXXXXX

In your memo of December 17, 1964 you refer to a letter dated August 1, 1958, addressed to the City of V---, in which we stated that of various items listed, which included water meters, all were real property except tools and shop equipment. Evidently this letter was in confirmation of a conference, at which time the list was submitted to us.

The letter of September 26, 1956, to the L--- A--- D--- of W--- and P--- which you state appears inconsistent (this is the item appearing on page 3563), reads in part as follows:

“In the past we have ruled that the sale of water meters in place as a part of the sale of a private water system is a sale of tangible personal property when the meters are on land not owned by the seller. Our ruling is based upon the fact that the seller has a right to remove the meters and the sale constitutes a constructive severance of the meters from the realty.”

Thus, the distinction, apparently, is that under the facts on which our letter of September 26 was based, the sale of the meters was by a lessee who had the right to remove them. This, apparently, was not the case in the facts involved in our letter to the City of V---.

Unless the meters are sold by a lessee having the right to remove them, to a purchaser other than the owner of the real property who also has the right to remove them, we think the sale should be regarded as a sale of real property.

EHS:fb